

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE K.VINOD CHANDRAN

THURSDAY, THE 19TH DAY OF MARCH 2015/28TH PHALGUNA, 1936

WP(C).No. 34016 of 2014 (B)

PETITIONER(S):

1. JAIFER K.
S/O.MONUDHEEN K, CHAPPANGATHODY HOUSE,
KOLATHUR P.O
KONDOTTY, MALAPPURAM.
2. RAFEEQUE
S/O.HASSAN, HOUSE NO.7/180, KAKKAD HOUSE
KUMMINIPARAMBA P.O, MALAPPURAM DISTRICT.
3. SYJU
S/O.APPU, OMOTH, KUMMINIPARAMBA P.O
PALLIKKAL VIA, MALAPPURAM DISTRICT.
4. MAMMINIPPAD ABDUL RASHEED,
S/O.HASSAN MAMMINIPPAD, MAMMINIPPATTU
UNNIYAL PARAMBA HOUSE, KUMMINIPARAMBU P.O, KONDOTTY
MALAPPURAM DISTRICT.
5. ALI P.K
S/O.KUTTYASSAN, PERINKADAKKATTU KARIPPUR
POTHUMPETTY HOUSE, KUMMINIPARAMBU P.O
MALAPPURAM DISTRICT.

**BY ADVS.SRI.BABU S. NAIR
SRI.K.RAKESH**

RESPONDENT(S):

1. THE AIRPORT DIRECTOR
CALICUT AIRPORT, CALICUT AIRPORT P.O
MALAPPURAM DISTRICT. 673 647.

CONTD..2..

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2. THE REGIONAL TRANSPORT AUTHORITY
MALAPPURAM, REPRESENTED BY ITS SECRETARY
CIVIL STATION, UP-HILL, MALAPPURAM 676 505.
3. THE JOINT REGIONAL TRANSPORT OFFICER
SUB REGIONAL TRANSPORT OFFICE, TIRURANGADI
MALAPPURAM DISTRICT, 676 306.
4. THE SUB INSPECTOR OF POLICE
KARIPPUR POLICE STATION
MALAPPURAM DISTRICT. 673 647.

ADDL. RESPONDENTS:

- ADDL.R5 SHIBU K, CHEVIDI KUZZIYIL HOUSE
CALICUT AIRPORT P.O,
KONDOTTY, MALAPPURAM DISTRICT - 673 647
- ADDL.R6 SAFVAN M., SAFVAN MANZIL
THURAKKAL P.O, KONDOTTY
MALAPPURAM DISTRICT - 673 638
- ADDL.R7 SHIHABUDHEEN.P, METHAL HOUSE
THURAKKAL P.O, KONDOTTY
MALAPPURAM DISTRICT - 676 638

(ADDL. RESPONDENTS IMPEADED AS PER ORDER DATED 26.2.15 IN I.A
NO. 2099/15)

RADDL.R5,R6,R7 BY ADV. SRI.PRASAD CHANDRAN
R2-R4 BY ADV. GOVERNMENT PLEADER SRI. R. RANJITH
R BY SRI.S.SUJIN

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD
ON 19-03-2015, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:

APPENDIX

PETITIONER(S)' EXHIBITS

- EXHIBIT P1. COPY OF THE PERMIT ISSUED TO THE 1ST PETITIONER.
- EXHIBIT P2. COPY OF THE PERMIT ISSUED TO THE 2ND PETITIONER.
- EXHIBIT P3. COPY OF THE PERMIT ISSUED TO THE 3RD PETITIONER.
- EXHIBIT P4. COPY OF THE PERMIT ISSUED TO THE 4TH PETITIONER.
- EXHIBIT P5. COPY OF THE PERMIT ISSUED TO THE 5TH PETITIONER.
- EXHIBIT P6. COPY OF THE JUDGMENT DATED 24.1.07 OF THIS HONOURABLE COURT IN WPC 26876/06.
- EXHIBIT P7. COPY OF THE RESOLUTION TAKEN BY THE PALLIKKAL GRAMA PANCHAYAT DATED 21.3.13.
- EXHIBIT P8. COPY OF THE RESOLUTION TAKEN BY THE PALLIKKAL GRAMA PANCHAYAT DATED 3.8.07.
- EXHIBIT P9. COPY OF THE NOTICE DATED 5.12.14 ISSUED BY THE 3RD RESPONDENT TO THE 1ST PETITIONER.
- EXHIBIT P10. COPY OF THE NOTICE DATED 5.12.14 ISSUED BY THE 3RD RESPONDENT TO THE 2ND PETITIONER.
- EXHIBIT P11. COPY OF THE NOTICE DATED 5.12.14 ISSUED BY THE 3RD RESPONDENT TO THE 3RD PETITIONER.
- EXHIBIT P12. COPY OF THE NOTICE DATED 5.12.14 ISSUED BY THE 3RD RESPONDENT TO THE 4TH PETITIONER.
- EXHIBIT P13. COPY OF THE NOTICE DATED 5.12.14 ISSUED BY THE 3RD RESPONDENT TO THE 5TH PETITIONER.
- EXHIBIT P14. COPY OF THE JUDGMENT DATED 28.11.14 OF THIS HONOURABLE COURT IN WPC 31226/2014.

RESPONDENT(S)' EXHIBITS: **NIL**

// TRUE COPY //

P.A to Judge

SB

K. VINOD CHANDRAN, J.
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W.P.(C) No.34016 of 2014 - B
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Dated this the 19th day of March, 2015

J U D G M E N T

The petitioners are aggrieved with the notices issued from Exts.P9 to P13 to surrender their permits to change the halting place. The said notices have been issued without any hearing conducted, is the contention of the petitioners.

2. I have heard the learned Counsel for the petitioners, learned Government Pleader as also the learned Counsel appearing for the additional respondents 5 to 7.

3. The petitioners' contention is that, the petitioners along with five others were granted permits as indicated in Exts.P1 to P5, wherein, the halting place originally was at Kolathur. Subsequently, the halting place of the petitioners were changed from Kolathur to Calicut Airport Cargo Complex. This is said to be on the basis of a

decision of the Local Self Government Institution as sanctioned by the Airport Authority. The Airport Authority had then permitted parking of such vehicles on the basis of Ext.P6 judgment. The petitioners rely on Ext.P14 judgment to contend; the mere fact that they were not heard itself would commend a fresh registration under 86(1) of the Motor Vehicles Act, 1988, which mandates an opportunity of hearing.

4. The additional respondents however oppose the prayer on a different aspect. The additional respondents would specifically point out Exts.P7 and P8, wherein, it was only decided by the Local Self Government Institution that a maximum of 10 autorickshaws alone would be permitted to be parked near the Airport Cargo Complex, as permitted by the Airport Authority. The said arrangement was to accommodate all the autorickshaws having permit, with halt at Kolathur and enabling 10 out of them as per a queue system to be parked at the Airport Cargo Complex. Kolathur and Airport Cargo Complex are said to be adjacent places at a distance of about 5 kms.

5. However, 10 autorickshaw drivers relying on Exts.P7 and P8 sought for change of halting place, which on a misapprehension was granted by the registering authority, exclusively to the said 10 persons. The other autorickshaws parking at Kolathur objected to the same, which resulted in the present notices being issued.

6. The 3rd respondent has filed a counter affidavit, in which no such arrangement is revealed. It is submitted that, the registering authority had granted the permit to 10 autorickshaws and there were complaints received from other autorickshaw owners against the grant of variation. In such circumstance, the Local Self Government Institution, the Pallikkal Grama Panchayath was requested to give their opinion in the matter. The Sub Inspector of Police, Karipur, who is concerned with the traffic arrangements was also requested for a report in the matter and so was a report called for from the Motor Vehicle Inspector.

7. It is specifically stated that, the Sub Inspector of Police has filed a report that, the International Airport Authority had already decided not to allow any parking in

and around 500 meters of the Airport. The present parking place at the Airport Cargo Complex being within the said limit, the Sub Inspector of Police specifically reported against permitting parking near Airport Cargo Complex.

8. The Motor Vehicle Inspector reported that, the granting of variation would lead to unhealthy competition. The Secretary of the Pallikkal Grama Panchayath has informed the authority that, the Panchayath in its meeting held on 27.11.2014 had taken a decision to request the respondent to cancel the halting place, granting parking near the Airport Cargo Complex. Hence, the local authority has requested the cancellation of the parking place granted at Airport Cargo Complex.

9. In such circumstance, though there is a mandate under the Rule to hear the petitioners that would be an empty formality especially considering the fact that, the Local Self Government Institution, who has to identify the parking place under Section 117 of the Motor Vehicles Act has recommended that, the parking place granted cannot be continued. This Court also cannot shut its eyes to

the security concern, which the International Airport Authority would have, on such parking being allowed in the near proximity of the Airport.

10. For all the above reasons, this Court does not find any reason to consider the prayers made by the petitioners. Since, they are permit holders, definitely they would be granted variation to park at Kolathur, their original parking place. The petitioners shall immediately approach the 3rd respondent, the Joint Regional Transport Officer, and surrender their permit, which shall be endorsed with halting place at Kolathur within a period of one week from the date of production of the certified copy of this judgment.

The writ petition would stand dismissed.

Sd/-
K. VINOD CHANDRAN,
JUDGE

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// true copy //

P.A to Judge